**UNITED STATES DISTRICT COURT**
**FOR THE EASTERN DISTRICT OF TEXAS**
**SHERMAN DIVISION**

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| **HODGSON VENTURES, LTD.,** | § | |
| | § | |
| ***Plaintiff,*** | § | |
| | § | **Civil Action No. 4:11-cv-00363** |
| **vs** | § | |
| | § | |
| **B & B ELECTRICAL, INC. d/b/a** | § | |
| **B&B ELECTRICAL AND** | § | |
| **KWI, LLC d/b/a KWI KINGWIRE** | § | |
| **LLC a/k/a KINGWIRE,** | § | |
| | § | |
| ***Defendants.*** | § | |

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**DEFENDANT'S NOTICE OF REMOVAL**

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Defendant KWI, LLC d/b/a KWI Kingwire, LLC, a/k/a Kingwire ("KWI") files its Notice of Removal of this action from the 16th Judicial District Court of Denton County, Texas, wherein it is now pending as Cause No. 2011-10316-16, to the United States District Court for the Eastern District of Texas, Sherman Division, the District Court of the United States for the District and Division embracing the place where this action is pending. This Notice of Removal is filed pursuant to 28 U.S.C. §§ 1441 and 1446. In support hereof, KWI would show unto the Court as follows:

1. On May 12, 2011, Plaintiff, Hodgson Ventures, Ltd. ("Plaintiff"), commenced an action against Defendants in the 16$^{th}$ Judicial District Court of Denton County, Texas, entitled *"Hodgson Ventures, Ltd. v. B & B Electrical, Inc. d/b/a B&B Electrical and KWI, LLC d/b/a KWI Kingwire LLC a/k/a Kingwire,"* pending as Cause No. 2011-10315-16.

2. Plaintiff's Original Petition (the "Petition") was first served on KWI on May 23,

2011, and on B&B Electrical, Inc. ("B&B") on May 20, 2011. Removal is timely pursuant to 28 U.S.C. § 1446(b), because thirty (30) days have not elapsed since the Petition was served on any of the Defendants. Further, B&B consents to the removal of this action. See, Exhibit D.

3. Pursuant to § 1446(d), this Notice of Removal will be filed with the 16th Judicial District Court of Denton County, Texas, and a copy of this Notice of Removal will also be served on Plaintiff. Attached as Exhibit "A" is an index of all documents that clearly identifies each document and indicates the date the document was filed in the district court; attached as Exhibit "B" is a copy of the docket sheet in the state court action; and, attached as Exhibit "C" are documents filed in the state court action, except discovery material, individually tabbed and arranged in chronological order according to the state court file date. Also, KWI has filed contemporaneously herewith the information required by Local Rule 81, and a separately signed certificate of interested persons and disclosure statement that complies with FRCP 7.1.

**Ground for Removal: Diversity**

4. This Court has original jurisdiction over this case pursuant to 28 U.S.C. § 1332, in that this is a civil action where the matter in controversy exceeds $75,000, and is between citizens of different States. Specifically, Plaintiff is seeking damages of at least $175,000, as reflected in the demand letter attached as Exibit B to the Petition. Further:

(i) KWI, at the time of the filing of this action, and all times since, was and is a foreign limited liability company organized under the laws of the State of Illinois with its principal place of business in the State of Illinois. Accordingly, KWI is a citizen of Illinois;

(ii) B&B, at the time of the filing of this action, and all times since, was and is a foreign corporation formed under the laws of the State of Michigan with its principal place of business in the State of Michigan. Accordingly, B&B is a citizen of Michigan; and

(iii) Hodgson Ventures, Ltd., at the time of the filing of this action, and all times since, was and is a limited partnership organized under the laws of the State of Texas, with its principal place of business in Texas. Further, based on information and belief, (1) the General Partner of Plaintiff is Curtis D. Hodgson, a resident and citizen of the State of Texas, and (2) all of the Limited Partners of Plaintiff are individuals and/or entities who are citizens of States other than Illinois and Michigan.

As Defendants are citizens of the States of Illinois and Michigan, while Plaintiff is a citizen of States other than Illinois or Michigan, complete diversity of citizenship exists between Plaintiff and Defendants.

5. There has not been any adjudication on the merits of the Petition in the state court action that would deprive Defendants of the right of removal. *See Beighley v. Fed. Deposit Ins. Corp.*, 868 F.2d 776, 782 (5th Cir. 1989) ("in general, 'the right of removal is not lost by action in the state court short of proceeding to an adjudication on the merits.'" (*quoting* 1A Moore, Federal Practice P 0.157[9] at 153 (1987)).

6. The State Court in which this action was commenced is within this Court's district and division.

7. This Notice of Removal is being filed with the 16th Judicial District Court of Denton County, Texas, and is being served via the Court's ECF system and the United States Mail on Plaintiff, as set forth in the attached Certificate of Service.

WHEREFORE, Defendant, KWI, LLC d/b/a KWI Kingwire LLC a/k/a Kingwire, prays that the above-described action now pending in the 16th Judicial District Court of Denton County, Texas, be removed to this Court.

Respectfully submitted,

*/S/ JAMES H. MOODY, III*
JAMES H. MOODY, III
State Bar No. 14307400

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**ATTORNEYS FOR DEFENDANT KWI, LLC d/b/a KWI KINGWIRE LLC a/k/a KINGWIRE**

## CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been furnished to opposing counsel, via certified mail, return receipt requested, in accordance with the Federal Rules of Civil Procedure, this 16th day of June, 2011.

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*/S/ JAMES H. MOODY, III*
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